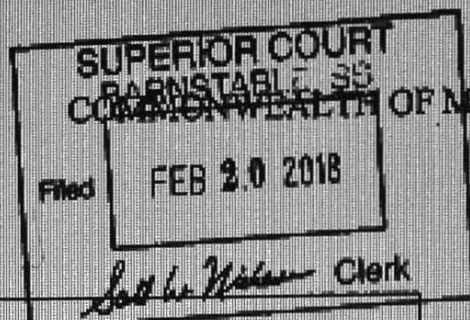


BARNSTABLE, ss.



SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION NO. 1572-00335

CHRISTOPHER KANAGA and
LARAJA & KANAGA, P.C.,
Plaintiffs,

v.

SHELDON MANUEL,
Defendant.

JOINT PRE-TRIAL MEMORANDUM

Pursuant to Rule 16 of the Massachusetts Rules of Civil Procedure, Superior Court Standing Order 1-88 and the Court's Order dated January 10, 2018, Plaintiffs Christopher Kanaga and Laraja & Kanaga, P.C. ("Plaintiffs") and Defendant Sheldon Manuel ("Manuel" or "Defendant"), collectively the "Parties," submit the following joint pre-trial memorandum in the above-captioned civil action.

I. DESCRIPTION OF THE CASE FOR THE JURY

The Parties could not agree on a Joint Description of the Case to be read to the jury. As a result, the Parties set forth their respective descriptions of the case below.

A. The Plaintiff's Description Of The Case

This case is an action for defamation brought by Christopher Kanaga and his law firm, Laraja and Kanaga, P.C., against Defendant Sheldon Manuel. On June 4, 2015, Ms. Manuel publicly asserted through Facebook that:

I have suffered death threats, break-ins, tappings (sic), postal fraud, hackings and character-demolishing attacks in court, as attempts were made by the cult lawyer, Chris Kanaga, to pay off my own lawyers and judges!! Even law enforcement were targeted by them as one of the officer from Cohasset on Boston's south Shore has admitted.

The Plaintiffs contend that this posting falsely asserted that they had attempted to bribe judges, lawyers, and members of law enforcement. They assert that neither Mr. Kanaga, nor any member of his law firm, has ever attempted to bribe judges, lawyers or members of law enforcement. Similarly, the Plaintiffs also assert that there has never been an ethics complaint filed against Mr. Kanaga in any jurisdiction; nor has he ever been sanctioned by any Court.

Plaintiffs contend that Mr. Kanaga has spent years developing a reputation as a skilled, honest, and well-respected lawyer in Orleans community. He was informed of the existence of Defendant's posting by one of his own clients, which caused him great embarrassment, anger, and humiliation. It also caused him fear and concern for his daughter and her career because she is an assistant district attorney, whose father was being accused of attempting to bribe judges and lawyers.

Plaintiffs further contend that after Ms. Manuel's June 4, 2015 posting, she continued her campaign to defame Mr. Kanaga by, among other things, faxing letters to judges falsely accusing him of being:

- a "potential murderer";
- running "brain-washing torture group";
- guilty of participating or initiating torture to seniors, children";
- guilty of "participating or initiating ... financial coercion crimes and inheritance snatching schemes";
- suspected "of heisting, embezzling over ¾ million of [money] from Trust Fund in the David BV. Manuel Estate;" and

- a threat to Defendant Manuel's physical safety, asserting that he was "chasing [her] with his team of thugs," stalking her, and that "his thugs will try to kill [her]."

Plaintiffs assert that these statements were not only false, but designed to target and attack the Plaintiffs' reputation with judges and to attack their business whose legal practice involves providing trust and estate advice and services to clients, including elderly clients.

Plaintiffs also assert that Ms. Manuel attempted to enlist others in her effort to attack Mr. Kanaga, including by trying to have them sign affidavits making false assertions against Mr. Kanaga. In addition, Ms. Manuel sent Mr. Kanaga's counsel a fax indicating that she had a "foreign press correspondent" and if Mr. Kanaga continued to pursue this lawsuit:

I will allow my friends to furnish the foreign media informer this copy, who says he has global connections and has already dealt with this situation with Kanaga before.

Ms. Manuel's conduct has and continues to cause Mr. Kanaga to become angry, embarrassed and worried about the impact of Ms. Manuel's statements on his reputation, his daughter's work as newly-appointed prosecutor, his law firm and his family and friends. As a result, he is seeking damages to his reputation and damages for emotional distress caused by Defendant's conduct.

B. Defendant's Description of the Case

At the time this lawsuit was commenced, the Defendant, Sheldon Manuel, was engaged in substantial litigation in the Norfolk County Probate Court and the Barnstable Probate Court in matters related to the estate of her late husband, David Manuel. Mrs. Manuel's rights to the estate under the Will of David Manuel were being challenged by her late husband's purported daughter, Blair Tingley, who was represented initially by the Plaintiff, Christopher Kanaga and his firm Laraja & Kanaga.

The concurrent probate court actions were the source of bitter controversy between Mrs. Manuel and Ms. Tingley and her representatives who accused Mrs. Manuel of not being the surviving spouse as her marriage to David Manuel was null and void due to the fact that the Nisi period had not run on David's divorce from Ms. Tingley's mother, Barbara Manuel.

In 2014, Sheldon Manuel was diagnosed with a rapidly growing malignant tumor on her breast. She sought treatment at Johns Hopkins Cancer Center in Baltimore, Maryland. The treatment resulted in her treating surgeons advising that she have a radical mastectomy of the tumor infested breast. The surgery took place in early 2015 and her recovery period was several months following that surgery.

During her recuperation, Mrs. Manuel was heavily sedated on pain medications including oxycodone and oxycontin (strong opioids). The effect of these medications were substantial affecting her in that she had memory lapses, difficulty in focusing her thoughts and related side effects. She was also advised that upon completion of her recuperation she was facing complex reconstructive surgery.

In June of 2015 she was under the influence of these medications and was unclear in her memory as to what was going on in her probate cases. She has no memory of making the alleged Facebook posting that the Plaintiffs assert she made intentionally and maliciously.

The Defendant is firmly convinced that the actions in the probate court in Norfolk County, attacking her marriage to David Manuel was malicious and legally unsupportable and designed to secure the estate from her for Ms. Tingley, and ultimately for the Community of Jesus.

The Defendant believes that this action was designed to impose additional legal pressure on her in a delicate emotional and medical state. The Defendant believes that the Plaintiff was

informed of the alleged posting by a person who has ties to the Community of Jesus, and further that the Plaintiff was the source of expanding the publication of the alleged posting throughout the Community of Jesus.

Mrs. Manuel has maintained from the commencement of this action that her computer was "hacked" by, she believes, members of the Community of Jesus who she believes made the alleged posting.

II. BRIEF STATEMENT AS TO WHAT THE EVIDENCE WILL SHOW

A. Plaintiffs' Statement Of The Evidence

The Plaintiffs' Background And High Reputation Within The Orleans Community

Mr. Kanaga graduated from the University of Denver and the University of Denver Law School in 1979, and received an LL.M. in taxation from the Boston University School of Law in 1980. In or about 1983, Richard Laraja partnered with Christopher Kanaga to form Laraja & Kanaga, P.C. in Orleans, Massachusetts. Orleans is a close-knit town with approximately 6,000 residents. As a result of the intimate nature of the town and Laraja & Kanaga, P.C.'s extensive work with clients, non-profit entities, and the community in and around Orleans, Mr. Kanaga and Mr. Laraja are often viewed interchangeably or as single "unit" in the community. Neither Mr. Kanaga nor Mr. Laraja have ever had an ethics complaint filed against them in any jurisdiction, nor have they ever been sanctioned by any Court.

Mr. Kanaga has lived in Orleans with his wife Susie for over 34 years. They have a daughter and a son, both of whom live in Massachusetts. Both are attorneys, and both of them, like Mr. Kanaga, depend on their reputations for integrity. Mr. Kanaga's daughter Courtney is an Assistant District Attorney in Plymouth County. Her reputation is obviously very important to her dealings with judges, lawyers, law enforcement and the community at large.

Mr. Kanaga's elderly parents, aged 92 and 88, also have lived in Orleans for 38 years. Mr. Kanaga's father is someone for whom ethics and integrity are particularly important. He served as Chairman of the Board of the United States Chamber of Commerce, Chairman of the American Institute of CPAs, and as Chairman of the Board of the accounting firm Ernst & Young. In all capacities, Mr. Kanaga's father's personal and professional focus was on restoring ethics to business. He spearheaded programs in ethics and professionalism at prestigious business schools, and he has in fact taught courses in business ethics.

Mr. Kanaga is Eucharistic Minister at the Church of the Transfiguration in Orleans, and a vowed member of the Community of Jesus, an ecumenical community comprised of approximately 275 individuals. Mr. Kanaga's community involvement in Orleans and Barnstable County is a very big part of his life, and has been built on what he hopes and believes is a reputation for integrity and ethics in his dealings with people. He spends a great deal of time working in the Orleans area with charitable organizations. These include church groups, youth organizations and charitable organizations that promote music, theater and the arts: The Spirit of America and Spirit Winter Percussion, working with young people, the Elements Theatre Company, which puts on theatrical productions in which he frequently acts, and the Arts Empowering Life, Inc., which organizes performing and visual arts events all over the world.

Just as Mr. Kanaga's community and civic life is predicated on people knowing that he is a person of integrity, so too is his professional life as a lawyer. His partner, Richard Laraja, and he formed Laraja and Kanaga in 1983, and have been the co-principals of the firm, located in a small building in downtown Orleans, ever since and like Mr. Kanaga he has worked and volunteered in many capacities. Mr. Laraja is currently Chairman of the Homeless Prevention Council and both Mr. Kanaga and Mr. Laraja represents individuals and small businessmen and

women who rely on the firm to represent them ethically, loyally and competently. Laraja & Kanaga's reputation for integrity is, very simply, the foundation of its practice; it is what has enabled them to grow and preserve the practice and earn Messrs. Laraja's and Kanaga's livelihoods in Orleans as well as the surrounding communities of Barnstable County for over three decades.

Laraja and Kanaga is frequently engaged to undertake people's estate planning and to assist them in the probating of estates. Mr. Kanaga's is frequently engaged to serve as a trustee of trusts, which by definition requires that clients know that he is a person of honesty and loyalty. Almost all of the Plaintiffs' clients are located in Barnstable County and many are elderly.

Ms. Manuel's Defamatory Post To 1.5 Billion Members Of Facebook

On June 4, 2015, Ms. Manuel publicly asserted on her Facebook page, which was open to the entire Facebook community as well as her nearly 600 "friends," that:

I have suffered death threats, break-ins, tappings, postal fraud, hackings and character-demolishing attacks in court, as attempts were made by the cult lawyer, Chris Kanaga, to pay off my own lawyers and judges!!! Even law enforcement were targeted by them as one officer from Cohasset on Boston's South Shore has admitted.

This posting was completely false. Neither Mr. Kanaga, nor any member of his law firm, have ever attempted to bribe lawyers or judges, or any member of law enforcement, or made death threats or engaged in any of the other cited alleged activities.

As indicated by the "world" (globe) icon next to the Shelli Baker Manuel post, Ms. Manuel used the "public" option on the "audience selector tool" on her Facebook message to ensure that her statements were not only available to all of Ms. Manuel's 600 followers on Facebook, but would also be published to the entire Facebook community of nearly 1.5 billion users.

The Damage Caused By Ms. Manuel's Libel

Ms. Manuel's false and defamatory post was brought to Mr. Kanaga's attention by one of his clients, Amy Ford, whose husband, Dan, was described by Defendant Manuel in both a Facebook posting and in a posting on the Facebook page for Megyn Kelly's television program on Fox Television, as having "laundered money" for a "cult" and having sexually abused individuals. Ms. Ford told Mr. Kanaga that Defendant Manuel was making appalling statements about Mr. Kanaga. Defendant Manuel's false statements were calculated to come to the attention of and upset Mr. Kanaga's loved ones — his parents, siblings, children, grandchildren, clients, friends, colleagues in public life and fellow members of his church.

Shortly after Ms. Manuel's public statements, Mr. Kanaga, even though he knew it would be personally embarrassing, felt obligated to tell members of his church about Ms. Manuel's statements. He stood before numerous members of the church and told them that Ms. Manuel had accused him of bribing judges and lawyers. As Mr. Laraja listened to Mr. Kanaga speak to the congregation, he was saddened to watch his good friend and law partner be publicly embarrassed in the community and be forced to publicly address false accusations that were antithetical to everything that Mr. Kanaga stands for as a lawyer, public servant, and citizen. Indeed, when Mr. Laraja learned of Ms. Manuel's public statements, he was shocked and angry. He was personally upset and anxious for Mr. Kanaga and his family because he knew how seriously Mr. Kanaga takes his reputation and how important integrity is to him and their law practice. Mr. Laraja knew that his friend and colleague had spent years developing a well-deserved reputation as a skilled, honest and well-respected lawyer only to be falsely accused of bribing judges and lawyers, not to mention a member of law enforcement.

Mr. Kanaga also had to inform his children about Ms. Manuel's statements. Both his son

and daughter have followed in their father's professional footsteps, becoming lawyers, with his daughter recently moving to Massachusetts to continue her career as an Assistant District Attorney in Plymouth. Mr. Kanaga's conversations with his children hurt him deeply because of their anger, anxiety, and concern for him, knowing that they should not have to suffer on his account. Mr. Kanaga also felt obligated to speak with his clients and business colleagues to address Ms. Manuel's false public accusations and assure them that her statements were false. He, unfortunately, also had to explain that Ms. Manuel would likely continue levelling false accusations against him – a reality which has created additional and ongoing anxiety and stress for Mr. Kanaga. Indeed, Mr. Kanaga's anxiety over Ms. Manuel's clear willingness to make – and continue making – false statements about Mr. Kanaga, while enlisting others in that regard, is well-grounded.

Ms. Manuel's Continued Her Campaign To Defame And Attack Plaintiffs

Mr. Kanaga was, and remains, anxious about what else Ms. Manuel will say or how else she will attempt to damage his reputation or hurt his business and family. His anxiety, and the anxiety of his friends and family, is well-justified, to put it mildly. Defendant Manuel is a sophisticated user of social and "regular" media, promoting herself, giving interviews, launching attacks on others and raising money for herself.

On August 4th and 7th, 2015, Ms. Manuel sent a series of faxes to this very Court making a series of outrageously false statements against Mr. Kanaga, accusing him of being:

- "a suspected potential murderer";
- "part of a brain-washing torture group";
- guilty of "initiating torture to seniors [and] children"; and
- an embezzler and "psycho-batterer."

These false statements, like her original false statement, are particularly hurtful and anxiety-producing for Mr. Kanaga for many reasons.

First, the majority of Mr. Kanga's trust and estate clients are elderly and therefore accusations that he "tortures," brainwashes, or abuses senior citizens is extremely damaging to his reputation and the trust that he has built in the community. Indeed, such false statements are designed to create serious doubts and concerns in the community about Mr. Kanaga and dissuade elderly clients, potential clients, and referring attorneys from contacting Mr. Kanaga or the law firm.

Second, Mr. Kanaga's reputation for integrity and honesty is paramount to his practice, as he is a trustee for my clients, entrusted as a fiduciary to manage their substantial assets. Therefore, false assertions on the public record that he "embezzles," is "suspecting of heisting" money, and is "guilty of ... financial coercion crimes" strikes at the heart of Mr. Kanaga's reputation and the law practice that he has worked so hard to build.

Third, Ms. Manuel's false assertions that Mr. Kanaga or his law firm has engaged in, or is suspected of engaging in, financial crimes, torture, or "murder," is not only damaging to Mr. Kanaga, but it causes him a great deal of anxiety because it directly affects his daughter, who recently became an Assistant District Attorney for Plymouth County. Mr. Kanaga worries that his daughter will now have to answer questions about her father's alleged "criminal conduct" and will continue to have to answer such questions as she seeks promotions and higher profile positions within law enforcement.

After making her additional false and defamatory statements about Mr. Kanaga, Ms. Manuel then made it clear to Mr. Kanaga that she intended to enlist others in her effort to attack

him, including members of the press. By way of limited example, on August 8, 2015, Ms. Manuel sent Mr. Kanaga's counsel a fax indicating that she had a "foreign press correspondent" and if Mr. Kanaga continued to pursue this lawsuit:

I will allow my friends to furnish the foreign media informer this copy, who says he has global connections and has already dealt with this situation with Kanaga before.

Moreover, Manuel has attempted to obtain, in her words, "hundreds" of false affidavits attacking Mr. Kanaga. For example, in this case, Carrie Buddington, who has worked with Manuel, was deposed. In that deposition, Ms. Buddington admitted that (1) in 2015 (while Manuel was representing to various courts that she was too "ill" to provide testimony in two cases she herself had brought), Defendant Manuel had drafted an affidavit for Buddington to sign in which she asked Buddington to state that "I am familiar with Esq. Kris [sic] Kanaga and he did me much harm and threatened me." She told Buddington in an email on January 1, 2015 that she was working on collecting a "folder of hundreds" of such statements. In fact, Buddington refused to sign the statement Manuel wanted her to sign because it was not true. Indeed, Ms. Buddington admitted that she is unaware of Mr. Kanaga ever threatening anyone or ever doing anything unethical. However, the fact remains that Defendant Manuel was apparently attempting to get others to make these false statements about Mr. Kanaga.

In another example of Defendant Manuel's campaign to attack, defame and harass Mr. Kanaga, Ms. Manuel filed a Petition for Protective Order in District Court of Tulsa County in Oklahoma on or about February 17, 2017, claiming that she needed protection in Oklahoma because:

- Mr. Kanaga is "the leader of a dangerous cult";
- she was the "victim of stalking" at the hands of Mr. Kanaga;

- Mr. Kanaga had made "death threats" against her in Oklahoma;
- Mr. Kanaga "or his thugs will try to kill [her]."

Of course, this was a complete fiction. Mr. Kanaga has not stepped foot in Oklahoma for close to 42 years, much less threatened anyone, much less threatened to kill anyone, much less having a team of "thugs." In fact, Manuel's pattern of making outrageously false and baseless assertions has prompted at least three separate courts to enter "gate-keeper" orders against her, including:

- Barnstable Probate Court Judge Ryley on February 29, 2016: "Ms. Manuel is demanding, persistent and emotional. Ms. Manuel's behavior can only be described as aggressive and oppressive. It must stop ... Ms. Sheldon Manuel is prohibited from filing any motions, pleadings or complaints with the Court by mail, in person, by email or by facsimile. If she desires to bring any matter before the Court she shall refer it to her attorney..."
- Norfolk Probate Court Judge Menno on January 6, 2017: "Sheldon Manuel is hereby restrained from filing any complaints of any nature or any pleadings in this matter without prior permission from a Judge of this Court."
- Oklahoma District Court Judge Morrissey on July 24, 2017: "It is ordered that Defendant Sheldon Manuel is hereby prohibited from faxing documents to the Court Administrator's Office and is prohibited from filing any further pleadings or motions in this matter without prior written permission from the Court."

(emphasis added).

Put simply, not only has Ms. Manuel defamed a well-respected member of the bar, accusing him of criminal conduct, she has made it clear that she intends to continue to hurl defamatory accusations from any jurisdiction in the hopes that she will never be held accountable for her conduct.

B. Defendant's Statement Of The Evidence

The Defendant believes that the credible evidence will show that the Defendant, Sheldon Manuel, is the widow of the late David Manuel, a noted author in both lay and Christian

communities. David Manuel was married to an individual named Barbara Manuel who bore a daughter, Blair into their marriage. David and Barbara Manuel became members of an organization commonly known as The Community of Jesus located in Orleans, Massachusetts.

For several years, the Manuels were active members of the Community of Jesus. Barbara Manuel became a close assistant to the then Prioress of the Community and ultimately became her Administrative Assistant. The assumption of this position placed a strain on the Manuel's marriage, especially when David Manuel was ordered by the Prioress to assume a period of celibacy in his marriage.

David Manuel thereafter left the Community of Jesus and urged his wife to leave with him. When she refused, the parties divorced. David Manuel thereafter married Sheldon Baker in a public ceremony in Washington D.C.

David Manuel and Shedon Manuel continued their Christian outreach ministry for several years, with a focus on the "Star Spangled Banner" and related historic and patriotic themes.

David Manuel thereafter contracted cancer and deceased. His widow, the Defendant, sought to continue their work together including a planned national event in September of 2015.

When Mrs. Manuel attended that event during her recuperation, she was quite unstable and although she sang the National Anthem at that event, she collapsed immediately thereafter and was required to have several days of bed rest. Rather than exercise any modicum of compassion, the Plaintiffs filed pleadings that essentially mocked Mrs. Manuel and alleged she was basically a malingering faker of her alleged illness. In fact, even as recently as 2017, the Plaintiff, Christopher Kanaga, stated under oath that he still does not believe the Defendant had cancer, despite having no medical knowledge or documentation to support his claims.

Sheldon Manuel sought to file her late husband's Will for probate in Tulsa, Oklahoma,

where she actually filed the Will electronically. Shortly thereafter, while planning a Memorial Service in Massachusetts for her late husband, she was barred from entering the family apartment because of a letter signed by the Plaintiff on his firm letterhead, challenging her status as surviving spouse.

On the advice of a member of her late husband's family, she was advised to obtain Massachusetts counsel and file her husband's Will for probate in Massachusetts so she could be appointed Estate Representative and access the apartment and their marital property.

After the Plaintiff sent the letter challenging Mrs. Manuel's status as widow, the Plaintiff was a participant in having Mrs. Manuel removed as estate representative and replaced by a Special Representative, Michelle Mannix.

In the course of these proceedings, the Mrs. Manuel filed counterclaims against the Plaintiffs. The Plaintiffs brought a Motion to Dismiss pursuant to Massachusetts Anti-SLAPP statute. The Plaintiff were successful and sought statutory attorney's fees in an amount in excess of \$20,000 for the motion alone. The Court, upon opposition reduced the amount of the fees to less than \$8,000. The award of these fees was an Interlocutory Order of the Court and not a final judgment.

The Plaintiff, however, represented to the courts in Tulsa, Oklahoma, that the Order was a "final judgment" and brought a so-called "debtor's action" against the Defendant. At no time did they advise the Oklahoma Court that the Order was interlocutory and enforcement should have been by contempt proceedings in Massachusetts. Once again it exemplified the Plaintiffs' clear animus against the Defendant and was a further attempt to legally bludgeon her into giving up. Even the Plaintiff, Kanaga admitted at his deposition that he understands that an interlocutory order is not a final order or judgment.

The evidence will further show that the Plaintiffs sought a bench warrant through Oklahoma Counsel, which places the Defendant, Mrs. Manuel under threat of arrest if she enters Oklahoma, where her home is situated.

The Plaintiffs place some focus on the statements of Carrie Buddington and suggest that the Defendant somehow solicited an untrue or false affidavit. This is not accurate nor is it the entire story.

In his filed Affidavit, Mr. Kanaga makes reference to the deposition of one, Carrie Buddington, and attaches a portion of the deposition to his Affidavit. The Affidavit recites actions which are attributed to the Defendant which are not supported by the entire deposition. The statements of the Defendant are "patch-worked" into a self-serving mosaic designed to say something other than what the actual statements were in full context. Ms. Buddington, in her deposition, was asked about papers involving actions by the plaintiff at the Community of Jesus, she refers to a "stack of letters between Christopher Kanaga and myself [Buddington] where he presented a waiver for me to sign." That statement alone opens the door to inquiry regarding the conduct of the Plaintiff and his actions related to the religious community of which he, as stated in his Affidavit, is a "vowed member".

On the opposite side of the coin is the actual email sent to Ms. Buddington by the Defendant in connection with the Affidavit. It is unambiguous from a plain reading that there were no "demands" placed upon Ms. Buddington. Actually, the freedom to edit as desired is clearly expressed. Ms. Buddington acknowledges that she was "rewriting it in my own words". (Further, the email, dated January 1, 2015, refers to the accusations brought against the Defendant in the Norfolk Probate Court relative to the estate of her late husband and the claims asserted by Blair Tingley, the decedent's daughter who was under the leadership of the Plaintiff, Christopher Kanaga, in the Community of Jesus.

In the days between January 1, 2015 and January 13, 2015, the Defendant exchanged emails with Ms. Buddington in connection with the proposed Affidavit. In the emails, which the Plaintiffs had in their possession long before commencing this action, the Defendant made reference to her serious medical condition and the stress from the "relentless pressure" while she was "grieving over David", her late husband. The Plaintiffs were well aware of what impact continued legal pressure was having on the Defendant.

Curiously, the Plaintiff, Mr. Kanaga includes these documents in his pleading as attachments to his sworn Affidavit, but does not make it clear that he has participated in and continues to be involved in proceedings as well as settlement negotiations in the Norfolk Probate proceedings in behalf of Blair Tingley despite having no appearance filed in her behalf. If anything, this gives rise to the Defendant's allegations that he has been part of an effort to keep the Defendant from inheriting her rightful estate from her late husband and lends credibility to her claims of an attempt to orchestrate and attempt by Ms. Tingley to obtain the assets of the estate, which in turn benefit the Community of Jesus.

What the Plaintiffs assert as damages is nominal. At several Court hearings they have made it clear that Mr. Kanaga is not seeking monetary damages.

There will also be substantial evidence that the Plaintiffs are both inexorably intertwined with the Community of Jesus, an organization that has been labeled a "cult" by the television media in Boston and by the Cape Cod Times. The evidence will show that Mr. Kanaga, by his own admission has a "duty" to protect the Community of Jesus. He has claimed in this action that his reputation in that Community has been damaged or somehow maligned by an alleged Facebook posting. However, he has never challenged the media representations of the Community of Jesus as a "cult" where allegations of abuse have been made for years.

The evidence will demonstrate that a common activity in the Community of Jesus is a practice referred to as "Light Groups" or Light Sessions". The Plaintiff denies that he knew of such practices or participated in any such practices. The evidence will show that this was not a true statement. In fact the Plaintiff, at his deposition admitted knowledge of the existence of "Light Groups" and described how they were conducted at a sister organization in Canada, known as the Greenville School.

The evidence will show that David Manuel, in the course of his divorce proceedings, filed an Affidavit, under oath alleging that it was the common practice at the Community of Jesus to identify wealthy members and thereafter seek to acquire their estate in whole or in part to fund the activities of the Community of Jesus both in the United States and in Italy. He alleged in his sworn Affidavit that this was an action he feared due his exit from the Community of Jesus.

The Plaintiffs rely upon statement from various Courts where the parties are engaged in legal proceedings. The Plaintiffs point out that the Defendant has been characterized as defiant of Court Orders, and an "out of control" in seeking to bring matters to the Court's attention. What they fail to include is the evidence that Mrs. Manuel was always attempting to comply, but was unable to do so due to the actions of her former Counsel. The evidence will demonstrate that she provided her Counsel with responses to Interrogatories and documents for production in a timely manner. For reasons unknown to her, the discovery responses were never properly prepared or filed with the respective Courts resulting in severe sanctions in the form of a dismissal of her actions. The evidence will also show that in a panic, while under the influence of pain medications and facing a third reconstructive surgery, she tried to circumvent her Counsel and get the paperwork before the Court. Unknown to her, the Court would not accept her filings since she had Counsel. She was in a "Catch-22" conundrum.

If anyone has had their character besmirched, it is Mrs. Manuel who has borne the heavy hand of multiple legal proceedings in multiple courts in two states. She has been painted as an eccentric, whining, malingering person who defies Court Orders and refuses to cooperate. The evidence will clearly show that she was a desperate individual who did not understand the process or proceedings and was not the recipient of reliable legal advice.

The Defendant has been "legally bullied" by the Plaintiffs and interested parties seeking to bludgeon her into submission and just "giving up" due to the stress and financial impact.

III. STATEMENT OF UNUSUAL LEGAL ISSUES

A. Statement Of Legal Issues By Plaintiffs

Plaintiffs expect certain evidentiary issues to be raised and addressed in motions *in limine* before trial, and that the parties' proposed jury instructions will further identify relevant legal issues. In addition, Plaintiffs respectfully request the Court's consideration of the following legal issues:

1. Plaintiffs Kanaga and Laraja & Kanaga Are "Private Persons", Entitled To The Negligence Standard

In Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974), the Supreme Court addressed the interplay of defamation law and the First Amendment. In so doing, the Court recognized "there is no constitutional value in false statements of fact," *id.* at 340, and that "the individual's right to the protection of his own good name 'reflects no more than our basic concept of the essential dignity and worth of every human being—a concept at the root of any decent system of ordered liberty.'" *Id.* at 341 (quoting Rosenblatt v. Baer, 383 U.S. 75, 92 (1966) (Stewart, J., concurring)). Against this backdrop, Gertz balanced the competing First Amendment and reputational interests by setting out a new standard: plaintiffs who were private figures could

recover for defamation upon a proof of negligence by the publisher, while public officials, public figures and *limited* public figures would have to prove so-called "actual malice" - - that the statement was published either knowing it was false or in reckless disregard of its falsity.^{1/} Id. at 344-46.

Plaintiffs are not public figures, such as a celebrities or media personalities. Nor are they limited purpose public figures who have thrust themselves to the forefront of some controversy to effectuate the outcome.^{2/} See Gertz, 418 U.S. at 356, 351. Since Plaintiffs believe they will be found to be private persons for purposes of the publication at issue, under New York Times Co. v. Sullivan, they need only demonstrate that Defendant's publication of the defamatory falsehoods were negligent. Under this standard, Defendant was required to act reasonably in checking the truth or falsity of the statements before publishing them. Ravnikar v. Bogojavlensky, 438 Mass. 627, 630 (2003); Schrottman v. Barnicle, 386 Mass. 627, 630 (1982); Stone v. Essex County Newspapers, Inc., 367 Mass. 849, 858 (1975). She failed to do so.

^{1/} As made clear by the U.S. Supreme Court and our SJC, the term "actual malice" is an unfortunate misnomer. See Harte-Hanks, 491 U.S. at 666, n.7 ("The phrase 'actual malice' is unfortunately confusing in that it has nothing to do with bad motive and ill will"); Rotkiewicz v. Sadowsky, 431 Mass. 748, 755 (2000) ("defendant's dislike of, hatred of, or ill will" toward the plaintiff is irrelevant; "The inquiry is a subjective one as to the defendant's attitude toward the truth or falsity of the statement, rather than the defendant's attitude toward the plaintiff").

^{2/} In identifying the pre-existing controversy, the Defendants will ultimately have to show, at the time of trial, "that persons actually were discussing some specific question" the resolution of which effected some broader segment of the community beyond those directly involved. Luberes, 664 F.3d at 13 (citing Bruno & Stillman, Inc. v. Globe Newspaper Co., 633 F.2d 583, 591 (1st Cir. 1980)). "A general concern or interest will not suffice. ...The court can see if the press was covering the debate, reporting what people were saying and uncovering facts and theories to help the public formulate some judgment." Waldbaum v. Fairchild Publ., Inc., 623 F.2d 1287, 1297 (D.C. Cir. 1980). "Once a controversy is isolated, the critical question then becomes whether the plaintiff has attempted to 'influence the resolution' of that controversy." Id. (citation omitted). "Trivial or tangential participation is not enough;" rather, the plaintiff must have so "thrust" herself to the fore "so as to become [a factor] in [the controversy's] ultimate resolution" and "achieved a 'special prominence' in the debate." Waldbaum, 623 F.2d at 1297 (citing Gertz, 418 U.S. at 356, 351).

2. Even If Plaintiffs Are Deemed Not To Be A Private Figure, Defendant Still Published Her Statements In Reckless Disregard Of Their Falsity

In the event the trial judge determines that Plaintiff Kanaga was somehow not a private figure, he will have to prove the Defendant published the false statements with "actual malice."³⁷ Actual malice simply requires that the Plaintiff prove that:

- "the defendant realized his statement was false or that he subjectively entertained serious doubts as to the truth of the statement."³⁸; or
- a defendant published a false statement with "a high degree of awareness of its probable falsity."³⁹

In terms of the factors for determining Constitutional "malice" and negligent publication, Plaintiffs respectfully submit that the Court utilize the model Superior Court Civil Practice Jury Instructions on defamation at §6.2.5 ("Negligent Publication") and §6.3.1 ("Proving Actual Malice").

3. Scope of Damages

Under black-letter Massachusetts law, "[s]tatements that prejudice one's professional standing or that charge one with a crime are actionable without proof of actual damages." Reilly v. Associated Press, 59 Mass. App. Ct. at 779. Defendant's statements attacking Plaintiffs do both; they attack the Plaintiffs' professional standing and charge Mr. Kanaga with various crimes, including bribing judges, lawyers, and law enforcement. Here, the Plaintiffs have

³⁷ The U.S. Supreme Court has advised courts against using the term "actual malice" with juries and should rather use a "plain English" explanation. Harte-Hanks, 491 U.S. at 666, n.7.

³⁸ Bose v. Consumers Union of U.S., Inc. 466 U.S. 485, 511, fn. 30 (1984) (emphasis added); Lane v. MPG Newspapers, Inc., 438 Mass. 476, 485 (2003) (affirming summary judgment because plaintiff failed to "show that defendant in fact entertained serious doubts as to the truth of his publication, but proceeded to publish it anyway").

³⁹ See St. Amant v. Thompson, 390 U.S. 727, 730 (1968).

suffered actual damages in the form of reputational damage as well as emotional distress. "A plaintiff in a successful defamation case is entitled . . . to fair compensation for actual damages, including emotional distress and harm to reputation (and any special damages that have been pleaded and proved)." *Avash v. Dana-Farber Cancer Inst.*, 443 Mass. 367, 404-405 (2004). As the Supreme Judicial Court recognized in a similar case where the plaintiff was accused of criminal misconduct:

With mental suffering the plaintiff is entitled to recover for the distress and anxiety which may have been the natural result of the legal wrong . . . In this case, the plaintiff has proved libel because extortion and fraud are crimes making them defamatory per se. The plaintiff testified about her mental suffering on reading the complaint. She stated her feelings of being "bludgeoned," "stunned," and then "outrage" and "anger." Such feelings are the "natural result" of the defamation, sufficient to prove mental suffering.

Shafir v. Steele, 431 Mass. 365, 373 (2000) (affirming damages for libel include harm to reputation and mental suffering, and with mental suffering plaintiff entitled to recover for "distress and anxiety which may have been the natural result of the legal wrong").

Defamation law not only recognizes the mental suffering that Mr. Kanaga experienced directly by Ms. Manuel's statements, but also compensates him for his emotional distress in knowing that his friends and family have suffered emotionally due to their concern for him.

Murphy v. Boston Herald, 449 Mass. 42 (2007) (affirming \$2 million defamation verdict; "The jury properly could consider the emotional distress experienced by the plaintiff as a result of watching his daughter suffer.").

4. Post-Trial Injunctive Relief

As set forth above and as will be established at trial, Defendant Manuel has engaged in an open campaign to attack Plaintiffs, particularly Mr. Kanaga. As a result, at the end of the trial,

Plaintiffs will likely seek an injunction enjoining Ms. Manuel from repeating certain defamatory statements concerning the Plaintiffs. As Chief Justice Warren held in 1967, "[T]he First Amendment does not include an absolute license to destroy lives or careers." Curtis Publishing Co. v. Butts, 388 U.S. 130, 170 (1967) (Warren, C.J., concurring). Thus, entering a permanent injunction to restrain speech which has been adjudicated to be libelous does not run afoul of the First Amendment. See Gertz v. Robert Welch, Inc., 418 U.S. 323, 340 (1974) ("there is no Constitutional value in false statements of fact.").

Indeed, Massachusetts and other courts have not hesitated to issue such injunctions at the conclusion of libel trials. See, e.g., Sidi v. El-Moslimany, 2016 U.S. Dist. LEXIS 110027, *2-4 (D. Mass. 2016) (entering post-trial injunction where defendants had engaged in "campaign" to injure and defame plaintiff, particularly through social media); Baker v. Kuritzky, 95 F. Supp.39 52, 58 (D. Mass. 2015) (entering post-trial injunction as to defamatory statements adjudicated to have been false); Hill v. Petrotech Resources Corp., 325 S.W. 302, 307-308 (Ken. 2010) ("The recognition that false, defamatory speech is unprotected by the First Amendment has resulted in the development of a modern, superseding rule concerning the enjoining of defamatory speech...Under the modern rule, once a judge or jury has made a final determination that the speech at issue is defamatory, the speech determined to be false may be enjoined."). The need for injunctive relief in this case is particularly warranted given that numerous Massachusetts courts as well as Oklahoma courts have issued "gate-keeper" orders to protect themselves from Defendant Manuel's harassing conduct. Certainly, Mr. Kanaga is entitled to the same protection.

B. Statement Of Legal Issues By The Defendant

The Plaintiff believes that the alleged posting, if proven to have been knowingly and willingly made, was merely a statement of opinion based upon information previously provided

to her from family, friends and other parties, as the Plaintiffs are not private individuals. They cannot have it both ways, either they are public figures in the community at large or they are not. In such a case, the Defendant's alleged posting was merely an expression of her opinion and as such not defamatory, despite how outrageous it may seem. *Myers v. Boston Magazine, Inc.* 380 Mass. 336, (1980).

The Plaintiffs further was the direct cause of any damage they allege as they were the source of spreading the alleged post throughout the Community of Jesus, and offer no evidence to support their allegations of millions of parties who read the alleged post and formed any opinion. They cannot recover for their own actions. In fact they fail to meet the damage requirements as they have no evidence to clearly demonstrate any financial loss or required medical or professional treatment for any anguish or distress they may allege they have suffered. *Millenium Equity Holdings, LLC v. Mahlowitz*, 456 Mass. 627 (2010).

IV. WITNESSES

A. Witnesses To Be Called By Plaintiffs:

Plaintiffs expect to call some or all of the following witnesses at trial.

1. Defendant Sheldon Manuel
2. Christopher Kanaga
46 S. Orleans Rd.
Orleans, MA 02653
3. Richard Laraja - Law partner
46 S. Orleans Rd.
Orleans, MA 02653
4. John Kanaga
46 S. Orleans Rd.
Orleans, MA 02653
5. Linda Inkley

- 46 S. Orleans Rd.
Orleans, MA 02653
6. Courtney Kanaga
4 Autumn Lane
Marion, MA 02738
757-652-1598
7. Susie Kanaga
46 S. Orleans Rd.
Orleans, MA 02653
8. Amy Ford
c/o Dan Ford, III
9. Dan Ford, III
Penobscot Investment Co.
50 Congress Street
Boston, MA 02109
10. Clinton Kanaga
21 Anchor Dr.
Orleans, MA 02653
11. Jim Trainor
6 Rt. 6A
Orleans, MA 02653
508-247-9700
12. Chief Scott McDonald
Orleans Chief of Police
90 Orleans-Chatham Rd.
Orleans, MA 02653
508-255-0117
13. Chief Anthony Pike
Orleans Chief of the Fire Department
58 Eldridge Park Way
Orleans, MA 02653
508-255-0050
14. John Ohman
12 Thomas Court
Dennis, MA 02638
508-385-4141
15. Ronald Bergstrom
1347 Old Queen Anne Rd.
Chatham, MA
16. Scott Nickerson

Clerk of the Superior Court, Keeper of Records
3195 Main Street, P.O. Box 425
Barnstable, MA 02630
508-375-6684

17. Facebook Keeper of the Records
1601 Willow Road
Menlo Park, CA 94025
18. Carrie Buddington
53 Sparkill Street
Watertown, MA 02472
19. Clerk of the District Court in and for Tulsa County Oklahoma
500 South Denver
Tulsa, OK
918-596-5000
20. Dr. John Shackelford
89 Portanimiticut Road
Orleans, MA 02653
508-241-1111
21. Janice O'Connell
Clerk of the Barnstable County Assembly of Delegates
3195 Main Street, Rt. 6A, First District Courthouse
Assembly Chamber Office
Barnstable, MA
508-375-6761
22. Mark Powers
28 West Road
Orleans, MA 02653
(508) 255-5245

B. Witnesses To Be Called By Defendant:

1. Sheldon Manuel, the Defendant
2. Carrie Buddington
53 Sparkill Street
Watertown, MA 02472
3. Postmaster of Orleans, Massachusetts

4. Andrew Hayle-Byrne, London, England

5. Christopher Kanaga
46 S. Orleans Rd.
Orleans, MA 02653

6. Dan Ford, III
Penobscot Investment Co.
50 Congress Street
Boston, MA 02109

7. Anastasia Welsh Perrino, Register
Barnstable Probate & Family Court
3195 Main Street
Barnstable, Mass. 02630

8. Keeper of the Records
Cohasset Police Department
Cohasset, Massachusetts

V. EXPERT WITNESSES

A. Experts To Be Called by Plaintiffs

Plaintiffs have not designated any expert witnesses at this time.

B. Experts To Be Called By Defendant

Defendant has not designated any experts in response to discovery.

VI. ESTIMATED LENGTH OF TRIAL

The Parties estimate that the trial will last at eight (8) to ten (10) days, assuming half-day trial days.

VII. POSSIBILITY OF SETTLEMENT

Plaintiffs certify that they have conferred with the Defendant's counsel regarding the possibility of settlement. However, settlement of this matter appears unlikely.

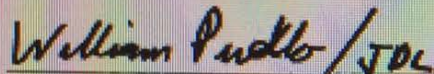
**VIII. CASE-SPECIFIC MANAGEMENT PROVISIONS UNDER SUPERIOR
COURT RULE 20(h)-(i)**

Plaintiffs have reviewed the case management procedures under Superior Court Rule 20(h)(i) and elect not to proceed under any of those case-management provisions.

Respectfully submitted,

SHELDON MANUEL,

By her attorney,

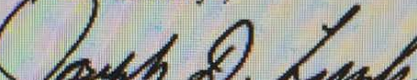
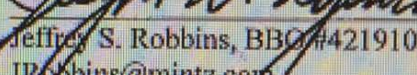
 JOL

William J. Pudlo
P.O. Box 676
West Springfield, mass. 01090
BBO #407640
Telephone: (413) 739-4000
FAX: (413) 739-3620
Billsbriefs@msn.com

Respectfully submitted,

**CHRISTOPHER W. KANAGA AND
LARAJA & KANAGA, P.C.,**

By their attorneys,


Jeffrey S. Robbins, BBO #421910
JRobbins@mintz.com

Joseph D. Lipchitz, BBO #632637
JDLipchitz@mintz.com
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111
(617) 542-6000

Dated: February 16, 2018